

REMARKS

The claims remaining in the present application are Claims 1-3, 8-12, and 21-23. Claim 1 has been amended. No new matter has been added as a result of this claim amendment.

CLAIM REJECTIONS

35 U.S.C. 103

Claims 1-3, 8-12, and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hohensee, et al., U.S. Patent No. 5,778,211 (hereinafter, Hohensee), in view of Ross et al., U.S. Patent No. 5,915,117 (hereinafter, Ross), and Le, Bich-Cau, U.S. Patent No. 6,631,514 (hereinafter, Le). The rejection is respectfully traversed for the following reasons.

Currently Amended Claim 1 recites in part:

maintaining a virtual exception mask by the emulator program for simulating a user program exception mask as if the user program were executing on the legacy platform

Applicant respectfully asserts that the combination of Hohensee, Ross, and Le fails to teach or suggest these claim limitations, alone or in combination.

For the foregoing reasons, Claim 1 is respectfully believed to be allowable over the prior art.

COMMON OWNERSHIP EXCLUDES "LE" REFERENCE

Next, Applicant respectfully asserts that Le is subject to being disqualified as a reference under 35 U.S.C. §103(c). References that are only prior art under 35 U.S.C. §102(e), (f), and/or (g) may not be applied under 35 U.S.C. §103(a) if the reference and the application were commonly owned, or subject to an obligation of common assignment, at the time the invention was made.

Applicant asserts that the present application and the Le reference were at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person. As such, Applicant Asserts that the Le reference is disqualified as a reference under 35 U.S.C. §103(c).

Claims 2-3, 8-12, and 21 depend from Claim 1, which is respectfully believed to be allowable for the foregoing reasons. Therefore Claims 2-3, 8-12, and 21 are believed by Applicant to be allowable.

DOUBLE PATENTING

Claims 1-3, 8-12, and 21-23 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,173,248.

A terminal disclaimer has been filed herewith to overcome the obviousness-type double patenting rejection over U.S. Patent No. 6,173,248. Therefore, the double patenting has been overcome.

CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the amendment and arguments presented above, Applicant respectfully submits that Claims 1-3, 8-12, and 21-23 overcome the rejections of record. Therefore, allowance of Claims 1-3, 8-12, and 21-23 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicant invites the Examiner to contact the Applicant's undersigned representative at the below listed telephone number.

Dated: 10/4/, 2004

Respectfully submitted,
WAGNER, MURABITO & HAO LLP


John P. Wagner, Jr.
Registration No. 35,398

Address: WAGNER, MURABITO & HAO LLP
Two North Market Street
Third Floor
San Jose, California 95113

Telephone: (408) 938-9060 Voice
(408) 938-9069 Facsimile